

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JIAXING LEADOWN FASHION CO. LTD, :
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 : Plaintiff, :
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 : - against - :
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 : LYNN BRANDS, LLC, et al., :
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 : Defendants. :
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USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: July 21, 2021

21 Civ. 976 (VM)

ORDER

VICTOR MARRERO, United States District Judge.

On April 21, 2021, and consistent with the Court's Individual Practices, counsel for Defendants sent a three-page premotion letter to Plaintiff's counsel identifying alleged deficiencies with the Complaint. On April 28, 2021, Plaintiff's counsel responded by premotion letter and noted that Plaintiff would amend the Complaint. (See attached letters.) Plaintiff then filed an Amended Complaint. (Dkt. No. 9.)

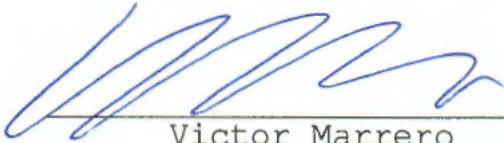
On May 26, 2021, counsel for Defendants again sent a three-page premotion letter to Plaintiff's counsel identifying alleged deficiencies with the Amended Complaint. Defendants' counsel stated that the prior deficiencies identified in the April 21 letter had not been resolved and attached the three-page April 21 letter as an exhibit. On June 2, 2021, Plaintiff's counsel responded by letter. Plaintiff's counsel objected to opposing counsel's request to incorporate the April 21 letter as an exhibit to the May 26 letter without first receiving the Court's permission to exceed the three-page limit for premotion letters. Plaintiff's counsel argued that the Court's consideration of the April 21 letter would prejudice

Plaintiff. (See attached letters.)

The Court will allow Defendants to incorporate the April 21 letter as an exhibit to the May 26 letter. However, in order to avoid undue prejudice to Plaintiff as a result, the Court will also grant Plaintiff permission to file an additional three-page letter responding to Defendants' arguments raised in the April 21 or May 26 letters. The Court will then resolve Defendants' anticipated motion to dismiss the Amended Complaint on the basis of the parties' premotion letters. See Kapitalforeningen Lægernes Invest. v. United Techs. Corp., 779 F. App'x 69, 70 (2d Cir. 2019) (affirming the district court's ruling deeming an exchange of letters as a motion to dismiss).

SO ORDERED.

Dated: New York, New York
21 July 2021



Victor Marrero
U.S.D.J.